



# Department of Justice

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As Prepared for Delivery

**STATEMENT BY ASSISTANT ATTORNEY GENERAL JOEL I. KLEIN  
FILING OF ANTITRUST SUIT AGAINST MICROSOFT  
May 18, 1998**

The lawsuit we filed today seeks to put an end to Microsoft's unlawful campaign to eliminate competition, deter innovation, and restrict consumer choice. In essence, what Microsoft has been doing, through a wide variety of illegal business practices, is leveraging its Windows operating system monopoly to force its other software products on consumers. This is like having someone with a monopoly in CD players forcing consumers to take its CDs in order to get the machine. We believe most Americans would prefer to choose their own CDs and, for that matter, their own software products as well.

The specific details of Microsoft's illegal scheme are set out at length in the court papers we filed today. Basically what the evidence shows is that Microsoft, from Bill Gates on down, quickly realized that Netscape's internet browser, called the Navigator, posed a real threat to

Microsoft's Windows monopoly. To deal with this threat, Microsoft first proposed to Netscape that, rather than compete with each other, the two companies should enter an illegal conspiracy to divide up the market. When Netscape refused, Microsoft then used its Windows monopoly to, in Microsoft's own words, "cut off Netscape's air supply."

Microsoft did this largely by locking up the two major distribution channels for internet browsers -- in particular, what it did was, first, to leverage its Windows monopoly to force its browser onto all new PCs and, second, to enter anticompetitive contracts with all of the major internet and online service companies, like America Online. At the same time, it severely restricted Netscape's ability to gain access to these critical distribution channels.

The evidence we gathered during our extensive investigation demonstrates that Microsoft uses these predatory and exclusionary practices not to help consumers but to make sure that Microsoft can crush its competitors. As one key Microsoft executive candidly stated: "It seems clear that it will be very hard to increase browser market share

on the merits of [our browser] IE 4 alone. It will be more important to leverage [Windows] to make people use IE instead of Navigator.”

This last point needs to be emphasized because it reflects not only what Microsoft said, but what it did: as the evidence makes clear, Microsoft is unwilling to compete fairly and on the merits; rather, it prefers to leverage its Windows monopoly “to make people use” its browser. The antitrust laws take a very different view of the way the marketplace should work: those laws are premised on the belief that, instead of having a monopolist “make people use” a product, people should be able to choose for themselves what products they want to use.

To protect consumer choice, then, and to preserve existing competition, we have today moved for a preliminary injunction in federal court. First, we will seek an order providing that, if Microsoft insists on including its browser with Windows 98, it must also include Netscape’s browser. If Microsoft would prefer not to include Netscape, all it needs to do is unbundle its own browser and let it compete on the merits. But to allow Microsoft and Microsoft alone to bundle its browser with its monopoly operating system could well cause

irreversible harm to competition by letting Microsoft unlawfully achieve a second monopoly, this time in internet browsers, during the time it will take to fully litigate this case.

At the same time, we believe that computer manufacturers should not be forced to carry products that they do not want and, so, our proposed injunction allows them to remove consumer access to Microsoft's browser, Netscape's browser, or both, and, of course, to include any other browser of their choosing. This will ensure true equality and real consumer choice.

In addition, the preliminary injunction also seeks to remove the competitive shackles that Microsoft now imposes on computer manufacturers. At present, Microsoft uses its monopoly power to ensure that all PCs are, in reality, Microsoft PCs. It does this largely by controlling the first screen that consumers see when their computers boot up; today, as a result of Microsoft's exercise of its monopoly power, that screen is virtually identical regardless of whether your computer is made by Compaq, Gateway, Hewlett Packard, or anyone else.

Bill Gates himself recognized the key competitive significance of this restriction on computer manufacturers. Indeed, shortly before the restriction was imposed by Microsoft, a couple of years ago, Mr. Gates directly expressed his serious concern, stating that the computer makers were “coming up with offerings together with Internet Service Providers that get displayed on their machines in a FAR more prominent way than MSN [Microsoft’s Online Service] or our Internet browser” and that these offerings by the OEMs were interfering with the “very very important goal” of “[w]inning Internet browser share.”

To restore these competitive options, which Microsoft took out of the market, the preliminary injunction will allow computer manufacturers to control the first screen of their own computers, so they can decide what software products they will feature or promote. This will increase consumer choice, generate renewed competition, and stimulate innovation in the software market.

Finally, we will seek an immediate end to all of Microsoft’s exclusionary agreements with Online Service Providers, Internet Service Providers, and Internet Content Providers. Microsoft claims that it has

amended these contracts to make them legal. It has not. Microsoft cannot be allowed to use its monopoly power to force these companies to promote Microsoft's products. Free choice is what these companies are entitled to and what will best serve consumers.

I should also note here that, while today's lawsuit focuses on certain critical issues relating to browser technology and the likely effect of Windows 98 in that competitive arena, our investigation into other Microsoft business practices and products is continuing.

In closing let me be absolutely clear: nothing we are doing here will or should prevent Microsoft from innovating or competing on the merits. What cannot be tolerated -- and what the antitrust laws forbid -- is the barrage of illegal, anticompetitive practices that Microsoft uses to destroy its rivals and to avoid competition on the merits. That, and that alone, is what this lawsuit is all about.